

USURPATIONS OF THE FEDERAL JUDICIARY IN THE INTEREST  
OF THE MONEY POWER.

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The Constitution is illogically supposed to be the creation of the Convention of 1787. After a hundred years of existence and expansion, the major part of it is the creation of progressive judicial construction. To prove this requires more space than the limits of this permit, but it will hardly be denied by capable constitutional lawyers.

First, there were forty years of liberal and progressive interpretation, then thirty years of strict construction, either expansive or restrictive according to the demand of construction with the Federal policy of this day is to strike down the States and yet to narrow the delegated powers of the national legislature wherever necessary to barricade against the advancing hosts of

be a tribunal well that there should be power to interpret the Constitution and to stay the hand of Congress in the long run. These judicial arbiters under our federal system, although nominally independent, are in fact really subject to their control. Every federal court, in the creation of the legislative will. The power that

premise Court itself can be controlled by the authority residing in Congress to reduce or enlarge its membership. Right here the supreme principle must come. To swing back the country to the control of the people, to reverse false doctrines, to permit the people to elect their representatives to prevent the failure of this last and best attempt at free government, is important to the Government, Senate, and House.

the existing judicial system, abolish the judges who stand for plutocratic privilege, and establish courts commanded by judges who stand for the rights of man.

By this means the popular will may be exerted and enforced. The framers of the Constitution hardly thought that they were conferring upon the Supreme Court the power to veto the acts of the House, Senate and President—a veto which is exercised whenever the court chooses to think the act unconstitutional. State or its agents, could have been set up by way of defence in the threatened action which the complainant sought to enjoin. But this was no ordinary case. Shylock and Mammon were the plaintiffs. The taxpayers of North Carolina, robbed of their property, were the defendants. To plunder the one and legal-

Nor is there in this anything novel or startling. It is just what was done by Jefferson and the Congress who came in after the fall of the Federalists in 1800. When William of Orange was contending with a reluctant or hostile House of Lords he gruffly informed them that they could pass his measures or he would reorganize them; he would pack their House by converting his Dutch guards into peers of the realm. Reorganizing courts for the purpose of enforcing obedience to parliamentary law is not a new thing. It is one of that constitutional monarchy which is so much adored in the high society of American money lords, and which they spoliate by the other, the rock-ribbed principles of equity jurisprudence must be undone. The State itself by wicked and wanton force must be brought up for judgment before the people's constitutional rights. The State must be despoiled of its rights, reserved to it by the Federal Constitution, must be denied. The power of every little federal judge to annihilate it must be assumed and asserted. And this too is the State—the one of the original thirteen—which refused to ratify the United States Constitution until it had assured the adoption of the Tenth Amendment, and so was guaranteed by the United States by this Constitution, nor prohibited by it to the States, as reserved to the States.

In part proof of the assertion that we are approaching a period of intolerable judicial supremacy, let certain recent cases be cited.

The national external and internal taxes are insufficient to meet the expenses of the government. To meet this deficiency Congress has resorted to taxation on the income of the rich. This is enacted into law. From the nation's court comes a veto—a veto so bombastic that in the days of the fathers when the government was a republic, the struggle for wealth, if it would have been regarded as premature. So prompt was the court to

get in its work that it would not wait for a bona-fide case to be brought to its bar. It rushed in to give its decision in a case that was not a genuine controversy between parties with opposing interests, but was virtually

ditions, was manifestly concocted to extract from the court an opinion against the income law and in favor of the parties who had made the law. The supreme issue was on. The millionaires demanded exemption from federal taxation. They were not afraid of the States. If one State seriously taxed their incomes they would move to another. They did not stand to offend them for fear of driving them out. They could congregate on one State by acquiring in it actual or nominal residence. As to that matter they could buy a State or so and use them as a model for the rest of the Union.

The only way to take their incomes out of Congress. Take from Congress that power and they are safely landed above and beyond the law. Says the Constitution: "Direct taxes shall be apportioned among the States according to numbers." This makes a direct tax impracticable. To get rid

of the income tax then the courts must hold that income taxes are direct taxes. The framers of the Constitution thought that the only direct taxes were taxes on land and polls. So thought the lawyers and judges assessing property and for the correction of abuses resulting from unlawful assessments, and that in the absence of illegal action by the assessors, they could not be interfered with because of excessive valuations.

and statesmen of the republic for a hundred years. But these judicial arbitrators of last resort, by a vote of five to four, upturn the settled interpretation of the Constitution and decree that the overgrown rich shall

not be taxed. Their victory is apparently complete. Nothing can defeat them but a constitutional amendment or a reorganization of the Supreme Court.

In North Carolina the reorganization syndicate of the Richmond and Danville Railroad Company, now called the Southern Railway

This Tennessee case is entitled to enduring renown because of its enunciation of the doctrine that railroads shall not be taxed upon their true value, because in some precinct or

of the Southern railway system. They acquired this great property by getting a lease upon it to them for ninety-nine years. This was substantially a sale. The Governor of North Carolina, in a message to the legislature, county other assessors appraised lands and mules at less than their worth.

In the state of Texas it seems that a Federal judge has discharged upon a habeas corpus a defendant duly in-

charged that the terms of the sale were unfair to the State, that the sale was procured by false pretence













